IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5738 OF 2006

Shobha Patil ..Petitioner.
Vs.
Arun Patil & Anr. ..Respondents.

Mr.Jaydeep Deo i/b Smt.Suhasini Mutalik, advs. for the Petitioner.

Mr.Gauri Jadhav, adv. for the Respondents.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 31, 2007.

P.C.:

1. Heard the learned counsel for the Petitioner and the respondents.

2. The petitioner was married to the respondent no.1 in 1976. Disputes took place between them and in 1993, the respondent no.1/husband filed divorce petition, which was dismissed by the Civil Judge but appeal was allowed and decree of divorce was granted on 16-1-1997. The petitioner/wife filed a Second Appeal No.504 of 1997 which was admitted subject to certain conditions but due to the non-compliance of the conditions, second appeal also came to be dismissed in default on 26-9-1997. That appeal was restored on 18-10-1998. Meanwhile, the respondent no.1 entered into marriage with the respondent no.2 on 21-12-1997.

3. The petitioner filed Special Civil Suit No.90 of 2002 under Hindu Adoption and Maintenance Act seeking maintenance. The respondent no.1 filed an application for stay on the ground that the second appeal is already pending before the High Court. After hearing the parties, the learned Civil Judge Senior Division, Nashik stayed the further proceeding in the said suit pending the disposal of the second appeal by the High Court. The learned Civil Judge observed that under Hindu Adoption and Maintenance Act, only a married woman can claim maintenance but a divorcee can claim maintenance only under Section 25 of the Hindu Marriage Act therefore, it is relevant for the decision of that suit to find out whether the petitioner is a married woman or divorcee.

4. After hearing the parties, I find no fault with the impugned order. There is no substance in the petition. Petition stands dismissed summarily.

[J.H.BHATIA, J.]